

Resolution Agreement
Hesperia Unified School District
OCR Case Number 09-15-1127

The Hesperia Unified School District (District), without admitting to any violation of law, agrees to implement the following provisions in this Resolution Agreement (Agreement) to resolve the issues investigated by the Office for Civil Rights, U.S. Department of Education (OCR), under the Title II of the Americans with Disabilities Act (Title II) and Section 504 of the Rehabilitation Act (Section 504), in the above-referenced complaint.

Individual Remedies

I. Evaluation and Placement

- A. The District will convene a Section 504 meeting by August 21, 2015, or at a mutually agreed-upon date between the School and the Complainant, which is to be attended by a team of individuals knowledgeable about the Student, and about evaluation data concerning the Student. The purpose of the meeting, and subsequent meetings if necessary, is to ensure that the Student's disabilities are fully and correctly identified; to review the goals, accommodations, placement and services provided for in the Student's May 13, 2015 IEP; and to ensure that the Student's IEP provides a placement and services that are adequate to meet all of the Student's individual disability-related needs.
- B. The Student's family will be given reasonable notice of the date on which the team will meet and be given opportunity to attend and to submit records or other information.
- C. At the meeting, the IEP team will review whether additional evaluation of the Student is needed to fully and accurately identify the Student's disabilities. The team will review all existing records pertinent to these determinations, including the evaluation done of the Student in July 2014, in which he was determined ineligible for special education services under an IEP.
- D. If the team determines that additional or more recent evaluation data are necessary to fully and correctly identify the Student's disabilities, the District will complete the necessary assessments within 30 days of parent consent to the assessment, and the date for completing the placement process may be extended for an additional 10 days. If the team determines that additional assessment is not needed, the team will document the reasons for that determination in the Student's IEP or an addendum.
- E. Either (a) at the IEP team meeting referenced in paragraph I.A. if the team determines that no additional assessments are needed or (b) at a subsequent meeting held within five days of the date of completion of any additional assessments, the team will review whether the services, accommodations and modifications currently in place for the Student are appropriate and sufficient to meet his individual needs, or whether additional or

alternate services, accommodations or modifications are needed. The District will also determine appropriate compensatory educational services to account for the Student's accumulated academic deficits during the period of May 31, 2013 and January 30, 2015 in a manner and process consistent with the FAPE requirements under Section 504. This discussion will include consideration of summer academic support services and additional tutoring during the school year. All decisions concerning whether or not services, accommodations or modifications are needed, and the basis for the decisions, will be documented in the Student's IEP or an addendum.

- F. The Student's family will be provided with written notice of procedural safeguards at the IEP team meeting referenced in Section I.A..

II. Individualized Support Plan

- A. The District will establish a Support Team to ensure that the Student's disability-based needs, particularly those related to his diabetes, are met once he transitions to high school in fall 2015. This Support Team will:
 - 1. include, at a minimum, the Student, the Student's parents, a medical professional, and relevant School personnel who are knowledgeable about the Student;
 - 2. develop an individualized Support Plan (Support Plan) to ensure that all parties are apprised of the steps needed to keep the Student safe in school;
 - 3. establish a point person or point of contact; and
 - 4. prior to the Student's matriculation at any new school in the District, or upon the request of the Student or the Student's parents, meet to review and revise the Support Plan as necessary to ensure its continuing effectiveness for the duration of the Student's enrollment in the District. The first such meeting will be held on or before September 15, 2015. This meeting may be held in conjunction with the IEP team meeting referenced in paragraph I.A., if the IEP team, the Complainant, and the Student are agreeable.
- B. The designated point of contact will meet with the Student's teachers at the beginning of the fall 2015 and spring 2015 semesters to discuss the Support Plan and provide copies to all staff.

Policies and Procedures

III. Revisions to District Policies and Procedures

- A. The District will revise BP and AR 6164.6 to include the following:

1. An explanation of “substantially limits” and “major life activities” consistent with the Americans with Disabilities Amendments Act of 2008 (ADAAA) and the guidance set forth in the January 19, 2012 Dear Colleague Letter from the U.S. Department of Education Assistant Secretary for Civil Rights and its attached FAQs.
2. A statement that the determination of whether an individual has a disability should not demand extensive analysis and may not be foreclosed solely on the basis of bottom-line measures such as grades.
3. The criteria for referring students who have been exited from a program pursuant to the IDEA, or found ineligible under the IDEA to the school's Section 504 Student Study Team to determine whether the student may need special education or related services, pursuant to Section 504 of the Rehabilitation Act of 1973. This provision will be cross-referenced in the District’s special education administrative regulation and procedures.
4. The following language from 34 C.F.R. 104.35 (b) and (c):
 - a. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
 - b. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
 - c. Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student’s aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student’s impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).
 - d. In interpreting evaluation data and in making placement decisions, the District will:
 - i. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
 - ii. Ensure that information obtained from all such sources is documented and carefully considered;
5. The time frames for evaluation and placement decisions after a referral has been made.

- B. The District will develop written administrative guidance for IEP and Section 504 teams. The administrative guidance will include the following:
 - 1. The standards set forth in AR 6164.6; and
 - 2. A statement that if the IEP/Section 504 team identifies deficiencies in the student's IEP/Section 504 plan or placement or in their implementation, it must take immediate steps to remedy those deficiencies.
- C. Professional Development and Training
 - 1. The District will provide notice of the revised policies, procedures, and administrative guidance described in Section II.A. and Section II.B. to all District and school site administrators and staff.
 - 2. The District will provide information to all District and school site administrators and staff on how to access technical assistance from the District on implementing the policies, procedures, and administrative guidance described in Section II.A. and Section II.B.
 - 3. By December 18, 2015 the District will provide mandatory training for administrators and teaching staff at the School on the policies, procedures, and administrative guidance described in Section II.A. and Section II.B.

IV. Letters to Parents/Guardians

- A. Within ten days of the date of this agreement, the School will compile a list of all enrolled students for whom diabetes is identified as a medical condition on their Individual Health Plans (IHPs), Section 504 plans and IEPs.
- B. Within fifteen days of the date on which this agreement is signed, the School will send a letter to the parents/guardians of those students. The letter will:
 - a. Inform them that the School is committed to providing a non-discriminatory educational environment for these students and following the provisions or accommodations in their IHPs, Section 504 plans or IEPs;
 - b. Invite any parents/guardians who have questions or concerns about any diabetes-related issues regarding their children, including attendance, illness or academic performance, to contact the School Principal, or to convene a SST, Section 504 or IEP team meeting, to discuss their questions or concerns.

V. Monitoring and Reporting

- A. Within ten days of the Section 504 meeting held pursuant to Section I., the District will provide to OCR documentation from the meeting, including (1) the names and titles of

the participants, (2) documentation reflecting the team's decision, and the reasons for the decision, as to whether additional evaluation/assessment of the Student's disability-related behaviors is needed, (3) a copy of the individualized Support Plan that was developed, (4) documents supporting the group's decision regarding compensatory and/or remedial services and (5) any other meeting notes that were generated. If additional assessment is conducted, the District will provide OCR with a copy of the assessment report and any revisions made to the Student's IEP by September 15, 2015. OCR will contact the District by September 25, 2015 to review and/or approve the report.

- B. By January 15, 2016, the District will provide OCR with a summary of its implementation of the individualized Support Plan, including sufficient supporting documentation to demonstrate implementation of this Agreement. The summary should include information about how the District responded to any questions or concerns raised to date, as well as any changes to the Support Plan made during fall 2015.
- C. By October 15, 2015, pursuant to Section III.B., the District will provide a draft of the guidance memorandum to OCR for review and/or approval.
- D. Within thirty days of receiving OCR's approval, the District will take the necessary steps to finalize the draft guidance memorandum.
- E. By October 15, 2015, pursuant to Section III.C., the District will provide to OCR for review and/or approval a copy of the training agenda, including the names of the trainer(s) and the proposed date(s) of completion.
- F. Within ten days of receiving OCR's approval, the District will take the necessary steps to finalize the draft training agenda.
- G. Within ten days of completion, the District will provide OCR with documentation that shows that it has completed the training described in Section IV.C. This documentation is to include (a) the names and titles of the trainer(s), (b) the dates of the trainings, (c) a copy of the final agenda and materials used at each of the trainings, and (d) a list of the participants.
- H. Within ten days of the date of the completion of the training, OCR will provide the District with a final copy of the guidance memorandum and distribution list pursuant to Section III.C.
- I. By September 15, 2015, the District will provide a copy of its revised policies and procedures pursuant to III.A. to OCR for review and/or approval.
- J. Within thirty days of OCR's approval of its policies and procedures, the District will publish the revised procedures and provide a final copy or link to the revised procedures to OCR.

- K. Within five days of the date on which this agreement is signed, the District will provide a copy of the letter described in Section IV. to OCR for review and/or approval.
- L. By September 1, 2015, the School will send a copy of the letter described in Section IV to the parents/guardians of any incoming students for whom diabetes is identified as a medical condition on their IHPs, Section 504 plans, or IEPs, and provide a copy to OCR.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District has fulfilled the terms of this agreement in compliance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act and its implementing regulations at 28 C.F.R. part 35, which were at issue in this case.

The District understands that by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the District understands that during the monitoring of this agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this agreement and is in compliance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act and its implementing regulations at 28 C.F.R. part 35, which were at issue in this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

_____/s/_____
Superintendent
Hesperia Unified School District

08/19/2015
Date